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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5359 of 2007

Date of decision: 16.10.2007

Ram Mehar **...Petitioner**

Versus

Rajesh Kumar and others **...Respondents**

CORAM: HON'BLE MR .JUSTICE RAJESH BINDAL

Present: Mr. Rajinder Goyal, Advocate for the petitioner.

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RAJESH BINDAL, J.

The petitioner filed present petition challenging the order dated September 13, 2007 passed by Motor Accident Claims Tribunal, Kaithal (for short "the Tribunal") whereby application of the petitioner for permitting him to withdraw total amount of compensation in cash, which is lying deposited in the FDR with Union Bank of India, Kaithal, was declined. However, the petitioner was permitted to withdraw a sum of Rs. 10,000/- only.

For the view I am taking in the present petition, I do not deem it appropriate to issue notice to the respondents as no one is going to be effected with the order passed by this Court.

Briefly, the facts are that vide award dated September 1, 2006, the petitioner was granted a sum of Rs. 25,000/- as compensation on account of permanent disability suffered by him. The amount was to be paid alongwith interest @ 7-1/2% per annum. The total amount payable to the petitioner came to Rs. 36,434/-, which was deposited in FDR No. 2537754 dated August 10, 2007 with Union Bank of India, Kaithal. However, as the petitioner needed the amount for installing new submersible bore in his fields to save his standing crops, the application was filed before the Tribunal for release of the entire money. However,

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only a sum of Rs. 10,000/- was ordered to be released and the prayer for rest of the amount was rejected relying upon the judgment of Hon'ble the Supreme Court in **General Manager, Kerala State Road Transport Corporation Vs. Susamma Thomas and others 1994 Accidents Claims Journal 1.**

I have perused the judgment of Hon'ble the Supreme Court in **Susamma Thomas's** case (supra) in which Hon'ble the Supreme Court has laid down guidelines regarding disbursement of the amount of compensation to the parties, which are to the following effect:-

> "In a case of compensation for death it is appropriate that the Tribunals do keep in mind the principles enunciated by this court in Union Carbide Corpn. V. Union of India, 1991 (4) SCC 584, in the matter of appropriate investments to safeguard the feed from being frittered away by the beneficiaries owing to ignorance, illiteracy and susceptible to exploitation. In that case approving the judgment of the Gujarat High Court in Muljibhai Ajarambhai Harijan Vs. United India Insurance Co. Ltd., 1983 ACJ 57 (Gujarat), this court offered the following guidelines:-
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> "(i) The Claims Tribunal should, in the case of minors, invariably order the amount of compensation awarded to the minor invested in long term fixed deposits at least till the date of the minor attaining majority. The expenses incurred by the guardian or next friend may, however, be allowed to be withdrawn;
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> (ii) In the case of illiterate claimants also the Claims Tribunal should follow the procedure set out in (i) above, but if lump sum payment is required for effecting purchases of any movable or immovable property, such as, agricultural implements, rickshaw etc., to earn a living, the Tribunal may

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consider such a request after making sure that the amount is actually spent for the purpose and the demand is not a rogue to withdraw money;

(iii) In the case of semi-literate persons the Tribunal should ordinarily resort to the procedure set out in (i) above unless it is satisfied, for reasons to be stated in writing, that the whole or part of the amount is required for expanding any existing business or for purchasing some property as mentioned in (ii) above for earning his livelihood, in which case the Tribunal will ensure that the amount is invested for the purpose for which it is demanded and paid;

(iv) In the case of literate persons also the Tribunal may resort to the procedure indicated in (i) above, subject to the relaxation set out in (ii) and (iii) above, if having regard to the age, fiscal background and strata of society to which the claimant belongs and such other considerations, the Tribunal in the larger interest of the claimant and with a view to ensuring the safety of the compensation awarded to him thinks it necessary to so order;

(v) In the case of widows the Claims Tribunal should invariably follow the procedure set out in (i) above;

(vi) In personal injury cases if further treatment is necessary, the Claims Tribunal on being satisfied about the same, which shall be recorded in writing, permit withdrawal of such amount as is necessary for incurring the expenses for such treatment;

(vii) In all cases in which investment in long term fixed

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deposits is made it should be on condition that the bank will not permit any loan or advance on the fixed deposit and interest on the amount invested in paid monthly directly to the claimant or his guardian, as the case may be;

(viii) In all cases Tribunal should grant to the claimants liberty to apply for withdrawal in case of an emergency. To meet with such a contingency, if the amount awarded is substantial, the Claims Tribunal may invest it in more than one fixed deposit so that if need be one such F.D.R can be liquidated."

These guidelines should be borne in mind by the Tribunals in the cases of compensation in accident cases."

In my opinion, none of the guidelines laid down by Hon'ble the Supreme Court debars the petitioner from getting the entire amount of compensation released for the reason that the amount awarded in favour of the petitioner is not substantial and it is only on account of permanent disability suffered by the petitioner that the compensation was awarded in his favour. The amount is sought by the petitioner for installation of submersible pump in his fields, so as to enable him to irrigate the same as the old tubewell installed in the fields had failed. The need of the petitioner seems to be genuine.

Accordingly, while setting aside the order passed by the Tribunal, it is directed that entire amount of compensation shall be released to the petitioner. However, the same shall be subject to satisfying the condition no. 2 as laid down by Hon'ble the Supreme Court in para 17 of the judgment in **Susamma Thomas's** case (supra).

The revision petition is disposed of in the manner as indicated above.

October 16, 2007 **(Rajesh Bindal)**
Pka **Judge**